IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

LA.App..No. 416 of 2002(D)

LAR.177/2000 of SUB COURT, ERNAKULAM
.....

APPELLANTS/CLAIMANT:
----

1. **SOOSAMMA, D/O. ABRAHAM JACOB,**
   KUMATHU, KAKKANAD, W/O. BABU P.I.

2. **BABU P.I., S/O. ISSAC,**
   PAREKKARA HOUSE, KOTHAMANGALAM.

BY ADV. SRI.MATHEW K.VARGHESE

RESPONDENT/RESPONDENT:

STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.V.MANOJKUMAR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 416 OF 2002

Dated this the 8th day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 177/2000 on the file of the Sub Court, Ernakulam. Acquisition is for the purpose of construction of a road leading to Cargo Terminal.

2. The property involved in this case is 4.80 Ares. The Land Acquisition Authority included the property in 'B' category. According to the appellants, having regard to the nature of the property, it should have been included in 'A' category, being a dry land having road access.

3. It is also submitted that the property is similar and similarly situated as the property covered by Exhibit A1. The reference court found that, in the absence of any evidence to establish that the property is similarly situated as the property covered by Exhibit A1, the appellants are not justified in claiming the same land value.

4. It is the contention of the appellants that on a mere reference to Exhibits B1 and B2, it can be seen that the properties are similarly situated. It is further submitted that if an opportunity is given to establish their case, if necessary by taking out a commission to prove the lie and location of the property, the appellants would be in a position to establish their case regarding the similarity with that of A1 property.

5. Learned Government Pleader submits that AW1 did not have such a case regarding similarity before the reference court. Hence it is not necessary to give a further chance to the appellants.

6. Having heard extensively the Government Pleader and also the counsel for the appellants, we are of the view that it is only in the interest of justice that a further opportunity is given to the appellants to establish their contentions with regard to the similarity and comparability of the acquired property with A1 property.

We accordingly set aside the judgment and decree in L.A.R. No. 177/2000 on the file of the Sub Court, Ernakulam and remit the matter to the said court for fresh consideration, with

liberty to the parties to adduce fresh evidence. Parties will appear before the reference court on 19.11.2007 and thereafter the case shall be disposed of within a period of another four months. Since the case is remanded, the appellants shall be entitled to refund of the court fee.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 416 OF 2002

J U D G M E N T

08.10.2007